

EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

GERRY MONROE

Plaintiff

v.

**HOUSTON INDEPENDENT
SCHOOL DISTRICT**

Defendant

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NO. 4:19-cv-01991

JURY DEMANDED

DECLARATION OF DENNIS HERLONG

Dennis Herlong declares that the following facts are true and are within his own personal knowledge:

1. I served as Of Counsel to the Plaintiff Gerry Monroe in the above-styled and numbered cause.
2. My legal background, qualifications, and experience are summarized in Plaintiff's Motion for Attorney's Fees, Costs, And Expenses, which is incorporated herein by reference.
3. I maintained contemporaneous, computerized records of all time that I spent and expenses that I incurred in representing Mr. Monroe in this matter. A copy of those records is attached hereto as Exhibit 1 and is summarized in Plaintiff's Motion for Attorney's Fees, Costs, And Expenses.

4. I was retained on June 18, 2019 to be co-counsel and help Scott Newar prepare and appear at the first permanent injunction hearing on behalf of Gerry Monroe. I reviewed injunction briefs filed with the Court. I read the Court's Order and assisted with preparation of Monroe's appeal to the Fifth Circuit. I reviewed HISD's appellee brief, helped prepare Monroe's reply brief, and helped prepare Scott Newar for oral argument. I reviewed the opinion of the Fifth Circuit. I attended a second permanent injunction hearing and reviewed the Court's Order. I attended the scheduling management conference hearing. I helped prepare Monroe's motion for summary judgment and reviewed HISD's motion for summary judgment. I attended a status conference with the court. I consulted with Scott Newar and reviewed Monroe's motion for reconsideration and motion for partial summary judgment. I consulted and reviewed Monroe's motion for interlocutory appeal and HISD's response to it. I reviewed drafts of the pretrial order and attended the pretrial conference. I attended the deposition of Dr. Patricia Allen. I attended trial and reviewed the Court's opinion.

5. In preparing my time records for submission in connection with Plaintiff's Motion for Attorney's Fees, Costs, and Expenses, I have exercised billing judgment. I did not attempt to include all of my time. I omitted many communications I had with Mr. Newar over the course of two years. My invoice reflects most, but not all, of the work that I performed. Other than meetings and consultation with him, all of the work I performed was on discrete assignments apart from the work he performed.

6. Since 2006, I have customarily charged fee-paying clients \$500.00 per hour for legal representation in this District. Based on 39 years of experience in this District, the hourly rates for counsel of my and Mr. Newar's experience are significantly above this amount. I represent many senior executives and managers and my customary fee for those clients is \$750.00 per hour. For the past 15 years, I have usually been lead counsel in most cases I handle. Occasionally, I also participate in trials as co-counsel with close colleagues such as Mr. Newar. We have worked together as co-counsel on many matters the past fifteen years. Those cases I have litigated in the Southern District of Texas with Mr. Newar include: *Kim Owen v. Harris County*, Civil Action No. 4:07-cv-03273; *Jan Harris v. Auxilium*

Pharmaceuticals, Inc., Civil Action No. H-07-3938; and *Kawaljeet Tagore v. U.S.A.*, Civil Action No. 4:09cv27 (First Amendment free exercise of religion case).

7. I have performed legal work in Houston, Texas continuously since August, 1982 when I received my J.D. degree from South Texas College of Law. I served as a briefing clerk for Justice James F. Warren, First Court of Appeals Houston. I became board certified in civil litigation in 1993. I served as chair of the civil trial certification commission for the Texas Board of Legal Specialization. I served as chair of the Houston Bar Association Litigation Section. I served as chair of the Labor and Employment Section of the Houston Bar Association. I have been selected to Best Lawyers in America every year since 2004. I have been selected to Texas Super Lawyers every year since 1993 and twice have been named Top 100 Lawyers in the State of Texas by that organization. I have tried over 60 cases to verdict. I was lead trial counsel in *Stevens v. National Education Corporation* (second largest workers compensation retaliation verdict in Texas, 1997, \$2.7 million); *Fischer v. Alfa Laval, Inc.* (second largest verdict for an individual employee in the U.S. in 1998, \$9.1 million); and *Bergstrom v. Dynegy, Inc.* (2004, \$10.1 million for the President of Dynegy). Based on 39 years of trial and litigation experience, I know that the requested rate of \$500.00 per hour for my services is in line with rates being charged by attorneys of comparable skill, experience and reputation practicing civil litigation in the United States District Court for the Southern District of Texas, Houston Division. My experience is that constitutional law litigation is one of the most complex areas of litigation. The *Monroe* case is proof of that fact. There have already been two trials and one appeal in this matter.

8. I will receive no compensation for my work on this case, other than any court-awarded attorney's fees.

9. Because I am a solo practitioner, during the time period from June 18, 2019 until August 18, 2021, I was limited in my ability to accept new clients and to devote time to existing ones during the pendency of this matter, especially during trial.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this the 3rd day of September, 2021.



DENNIS HERLONG

EXHIBIT 1

Dennis G. Herlong
 440 Louisiana, Suite 900
 Houston, TX 77002

Invoice submitted to:
 Gerry Monroe
 c/o Scott Newar

August 05, 2021

In Reference To: HISD lawsuit
 Invoice #10039

Professional Services

	<u>Hrs/Rate</u>	<u>Amount</u>
6/18/2019 Review Monroe's permanent injunction brief.	1.00 500.00/hr	500.00
6/21/2019 Review Monroe's permanent injunction reply brief.	1.00 500.00/hr	500.00
7/11/2019 Attend permanent injunction hearing.	3.50 500.00/hr	1,750.00
7/19/2019 Review district court's opinion on permanent injunction.	1.50 500.00/hr	750.00
9/11/2019 Review draft of Monroe's appellant's brief.	2.00 500.00/hr	1,000.00
10/8/2019 Review HISD appellee's brief.	1.50 500.00/hr	750.00
10/13/2019 Review draft of Monroe's Reply Brief.	1.50 500.00/hr	750.00
10/30/2019 Preparation for oral argument with Scott Newar.	2.00 500.00/hr	1,000.00
11/25/2019 Review opinion from the Fifth Circuit.	1.50 500.00/hr	750.00
12/10/2019 Attend permanent injunction hearing. Meeting with Scott Newar.	3.50 500.00/hr	1,750.00

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	<u>Hrs/Rate</u>	<u>Amount</u>
12/11/2019 Review district court's opinion. Meeting with Scott Newar.	1.50 500.00/hr	750.00
2/14/2020 Attend scheduling management conference hearing.	1.50 500.00/hr	750.00
3/11/2020 Review new first amendment case from the Fifth Circuit.	1.50 500.00/hr	750.00
3/13/2020 Review Monroe's motion for summary judgment.	1.50 500.00/hr	750.00
3/16/2020 Review HISD's response to Monroe's motion for summary judgment.	1.50 500.00/hr	750.00
4/15/2020 Review draft of Monroe's reply regarding motion for summary judgment.	1.50 500.00/hr	750.00
7/6/2020 Review HISD motion for summary judgment.	1.00 500.00/hr	500.00
Review Monroe's response to HISD motion for summary judgment.	1.00 500.00/hr	500.00
2/12/2021 Attend status conference with the court.	1.50 500.00/hr	750.00
2/15/2021 Review Monroe proposal to HISD regarding settlement.	0.50 500.00/hr	250.00
3/15/2021 Review district court order denying Monroe's motion for partial summary judgment. Review draft of Monroe's motion for consideration.	1.50 500.00/hr	750.00
4/14/2021 Review district court order denying Monroe's motion for reconsideration.	1.50 500.00/hr	750.00
4/28/2021 Review Monroe's motion for interlocutory appeal.	1.50 500.00/hr	750.00
5/12/2021 Review HISD's response to motion and Monroe's reply regarding motion for interlocutory appeal.	1.00 500.00/hr	500.00
6/24/2021 Review drafts of proposed joint pretrial order.	1.00 500.00/hr	500.00
7/16/2021 Attend pretrial conference.	1.50 500.00/hr	750.00
7/22/2021 Attend Dr. Patricia Allen deposition.	1.00 500.00/hr	500.00

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	<u>Hrs/Rate</u>	<u>Amount</u>
7/26/2021 Attend trial.	3.50 500.00/hr	1,750.00
7/27/2021 Review proposed supplemental authorities letter to the court.	0.50 500.00/hr	250.00
8/5/2021 Review district court's opinion.	1.50 500.00/hr	750.00
For professional services rendered	<u>46.50</u>	<u>\$23,250.00</u>
Balance due		<u><u>\$23,250.00</u></u>

Dennis G. Herlong
 440 Louisiana, Suite 900
 Houston, TX 77002

Invoice submitted to:
 Gerry Monroe
 c/o Scott Newar

August 25, 2021

In Reference To: HISD lawsuit
 Invoice #10040

Professional Services

	<u>Hrs/Rate</u>	<u>Amount</u>
8/17/2021 Prepare attorney's fee declaration.	2.00 500.00/hr	1,000.00
Review and edit motion for application of attorney's fees.	1.00 500.00/hr	500.00
For professional services rendered	<u>3.00</u>	<u>\$1,500.00</u>
Previous balance		\$23,250.00
Balance due		<u><u>\$24,750.00</u></u>